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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/871,199	05/31/2001	James M. Kain	20341-67618	9889

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EXAMINER

EDELL, JOSEPH F

ART UNIT PAPER NUMBER

3636

DATE MAILED: 04/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 09/871,199	Applicant(s) KAIN, JAMES M.	
	Examiner Joseph F Edell	Art Unit 3636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 December 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 2-31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2-31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 February 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

This Office Action is in response to the Reply Brief filed 29 December 2004. The Examiner's Answer mailed 17 November 2004 has been withdrawn in view of the new prior art of record.

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 10 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,526,537 to Conrad.

Conrad discloses a seat assembly that includes all the limitations recited in claims 10 and 12. Conrad shows a vehicle seat assembly having a seat (Fig. 4) with a seat bottom 38 (Fig. 2) and a seat back 73 (Fig. 7), a cantilevered armrest 75 (Fig. 7) projecting from the seat back, an arm (Fig. 7) of the armrest including a free end, a top surface, and a support mount 79 (Fig. 7) appended to the arm and coupled to the seat back to support the arm in a cantilevered position, and a first fastener (Fig. 7) coupled to the support mount and seat back to maintain the arm in the cantilevered position wherein the first fastener is arranged to lie above the top surface of the arm to cause the arm to lie between the first fastener and the seat bottom when the arm is in the

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cantilevered position, the support mount includes a flange (Fig. 7) coupled to the arm and formed to include an upper wing rising above the arm and away from the seat bottom and the first fastener is coupled to the upper wing, a fastener aperture (Fig. 7) formed in the upper wing, a ridge (Fig. 7) of the seat back positioned to lie adjacent to the upper wing and formed to include a fastener aperture (Fig. 7), and the first fastener is arranged to extend through the fastener apertures formed in the ridge of the seat back and the upper wing of the flange of the support mount.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 2, 3, 6-9, 11, 25, and 27-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,478,372 B1 to Lemmeyer et al. in view of Conrad.

Lemmeyer et al. disclose a seat assembly that is basically the same as that recited in claims 2, 3, 6-9, 11, 25, and 27-29 except that the support mount lacks upper and lower wings, as recited in the claims. See Figures 1-7 of Lemmeyer et al. for the teaching that the seat assembly has a seat 10 (Fig. 2) with a seat bottom 14 (Fig. 2) and seat back 12 (Fig. 2), a cantilevered armrest 16 (Fig. 2) projecting from the seat back, an arm (Fig. 1B) with a free end 21 (Fig. 1B) included in the cantilevered armrest, a top surface 104 (Fig. 1B) of the arm adapted to support a forearm of an occupant, a lower

edge 106 (Fig. 1B) of the arm spaced below the top surface, a support mount 19 (Fig. 1B) appended to the arm and coupled to the seat back wherein the support mount has inner and outer flanges (Fig. 1B) positioned to lie in spaced-apart relation to receive a ridge of the seat back in a U-shaped channel 101 (Fig. 1B) formed in the support mount between the inner and outer flanges, a first fastener (column 6, lines 6-12) coupled to the support mount and seat back to maintain the arm in the cantilevered position, a second fastener (column 6, lines 6-12) coupled to the support mount and seat back and arranged to lie between the first fastener and the seat bottom, and fastener apertures 120,122 (Figs. 1A-1B) formed in the inner and outer flanges and the ridge of the seat back. Conrad shows a seat assembly similar to that of Lemmeyer et al. wherein the cantilever armrest includes an upper wing (Fig. 1) rising above the arm and away from the seat bottom and fastened to a ridge of the seat back (Fig. 1), a lower wing extending below the arm and toward the seat bottom and fastened to the seat back. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the seat assembly of Lemmeyer et al. such that the each flange of the support mount is formed to include an upper wing rising above the top surface of the arm and away from the seat bottom and the first fastener is coupled to the upper wing of each flange and the ridge of the seat back as well as a lower wing extending below the arm and toward the seat bottom and the second fastener is coupled to the lower wing of each flange and the seat back, such as the seat assembly disclosed in Conrad. One would have been motivated to make such a modification in view of the suggestion in

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Conrad that the upper and lower wings provide bracing support for the cantilever armrests.

5. Claims 5 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lemmeyer et al. in view of Conrad as applied to claims 2, 3, 6-9, 11, 25, and 27-29 above, and further in view of U.S. Patent No 5,297,851 to Van Hekken.

Lemmeyer et al., as modified, disclose a seat assembly that is basically the same as that recited in claims 5 and 30 except that the fasteners lacks a barrel and screw, as recited in the claims. See column 6, lines 6-12 of Lemmeyer et al. for the teaching that the armrest include fasteners that are rivets, bolts, or other conventional fasteners. Van Hekken shows a seat assembly similar to that of Lemmeyer et al. wherein each fastener (Fig. 4) includes a barrel 50 (Fig. 4) with a first end and an opposite threaded open end, an enlarged head (Fig. 4) coupled to the first end, and a screw 32 (Fig. 4) threaded to fit in and mate with the threaded open end of the barrel. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the seat assembly of Lemmeyer et al. for that teaching that each fastener includes a barrel with a first end and an opposite threaded open end, an enlarged head coupled to the first end, and a screw threaded to fit in and mate with the threaded open end of the barrel to couple the support mount to the seat back, such as the seat assembly disclosed in Van Hekken. One would have been motivated to make such a modification in view of the suggestion in Van Hekken that the threaded barrel and screw configuration of each fastener allow for easy attachment of plastic seat parts while lessening the instance of stress fractures in the plastic.

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6. Claims 4 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lemmeyer et al. in view of Conrad as applied to claims 2, 3, 6-9, 11, 25, and 27-29 above, and further in view of U.S. Patent No. 3,542,427 to Herpel.

Lemmeyer et al., as modified, disclose a seat assembly that is basically the same as that recited in claims 4 and 31 except that the fastener lengths are not specified, as recited in the claims. Herpel discloses a seat assembly similar to that of Lemmeyer et al. wherein the seat assembly has an armrest 28 (Fig. 1) including a first fastener 48 (Fig. 4) with a first length and a second fastener 56 (Fig. 4) with a second length longer than the first length. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the seat assembly of Lemmeyer et al. wherein the first fastener has a first length and the second fastener has a second length longer than the first length, such as the seat assembly disclosed in Herpel. One would have been motivated to make such a modification in view of the suggestion in Herpel that the longer second fastener allows for communication and attachment of both armrests.

7. Claims 13-24 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lemmeyer et al. in view of Conrad as applied to claims 2, 3, 6-12, 25, and 27-29 above, and further in view of U.S. Patent No. 3,279,848 to Walker.

Lemmeyer et al., as modified, disclose a seat assembly that is basically the same as that recited in claims 13-24 and 26 except that the armrest lacks a load support panel, as recited in the claims. Please note that Lemmeyer et al. and Conrad teach the option of including rotating cantilevered armrests. Walker shows a seat assembly

similar to that of Lemmeyer et al. wherein the armrest 42 (Fig. 2) includes a load support panel 49 (Fig. 1) arranged to lie in a fixed position relative to the armrest and a support panel (Fig. 1) to block pivotable movement of the armrest. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the seat assembly of Lemmeyer et al. such that the armrest includes a load support panel arranged to lie in a fixed position relative to the arm and the support mount and to engage a ridge of the seta back to block pivotal movement of the cantilever armrest toward the seat bottom, such as the seat assembly disclosed in Walker. One would have been motivated to make such a modification in view of the suggestion in Walker that the load support panel prevents unwanted rotation of the armrest.

### ***Response to Arguments***

8. Applicant's arguments with respect to claims 2-12, 25, and 27-31 have been considered but are moot in view of the new ground(s) of rejection. Applicant's arguments filed 22 December 2004 have been fully considered but they are not persuasive. With respect to Applicant's argument that the modification of Lemmeyer et al. in view of Walker is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a



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reconstruction is proper. Specifically, Applicant states that the load support panel of Walker is not part of the arm. However, the load support panel is attached to both the armrest and the support mount such that the load support panel is included on the armrest. Further, Applicant argues that the load support panel is not in a fixed position relative to the armrest. While Walker discloses an armrest that is pivotable, the load support panel remains stationary and immovable. In the event that the user attempts to pivot the armrest downward toward the seat bottom, the armrest and load support panel will remain immovable and in a fixed position relative to one another. Therefore, the armrest includes a load support panel that is arranged to lie in a fixed position relative to the arm.

### ***Conclusion***


9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph F. Edell whose telephone number is (703) 605-1216 until 07 April 2005 and will be (571) 272-6858 thereafter. The examiner can normally be reached on Mon.-Fri. 8:30am-5:00pm.

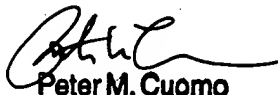
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JE  
April 4, 2005

  
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